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15 Attorneys for Allstate Insurance Company  
16 (erroneously sued as "Allstate Property  
17 and Casualty Insurance Company")

18 UNITED STATES DISTRICT COURT

19 CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

20 MATTHEW POTURICH AND  
21 TERESA POTURICH,

22 Plaintiffs,

23 v.

24 ALLSTATE INSURANCE  
25 COMPANY, ALLSTATE PROPERTY  
26 AND CASUALTY INSURANCE  
27 COMPANY, and DOES 1 through 50,  
28 inclusive,

Defendants.

Case No. 5:15-cv-00081-GW-KKx

The Hon. Kenly Kiya Kato  
Courtroom 3/4 Third Floor

**ALLSTATE'S NOTICE OF  
MOTION TO COMPEL  
PLAINTIFFS' DEPOSITIONS AND  
MOTION FOR SANCTIONS**

Date: September 3, 2015  
Time: 10:00 a.m.  
Dept.: Courtroom 3/4

Complaint Filed: December 12, 2014  
Trial Date: January 12, 2016

1 **TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

2       **PLEASE TAKE NOTICE** that on September 3, 2015, at 10:00 a.m., or as  
3 soon thereafter as this matter may be heard in Courtroom 3/4 Third Floor of the  
4 above-captioned court, located at 3470 Twelfth Street, Riverside, CA 92501,  
5 defendant Allstate Insurance Company (“Allstate”) will and hereby does move the  
6 Court to order the following:

- 7           (1) Plaintiffs must appear for their depositions on August 18 and 19, 2015;  
8           (2) Plaintiffs shall pay sanctions to Allstate in the amount of \$3,960.40 as a  
9                  result of Plaintiffs’ failure to appear at their depositions and to comply  
10                 with court rules; and  
11           (3) Alternatively, Plaintiffs are precluded from offering any testimony in  
12                  support of their claims and further precluded from offering any  
13                  documents requested by Allstate in the deposition notices that Plaintiffs  
14                  may otherwise offer in support of their claims.

15       This Motion is made pursuant to Federal Rules of Civil Procedure Rules 30  
16 and 37, on the basis that Plaintiffs failed to confirm their appearance at properly  
17 noticed depositions, failed to appear at those depositions, and failed to respond to  
18 Allstate’s meet and confer efforts in rescheduling the depositions. Consequently,  
19 Allstate requests that this Court order the following:

- 20           (1) Plaintiffs must appear for their depositions on August 18 and 19, 2015;  
21           (2) Plaintiffs shall pay sanctions to Allstate in the amount of \$3,960.40 as a  
22                  result of Plaintiffs’ failure to appear at their depositions and to comply  
23                 with court rules; and  
24           (3) Alternatively, Plaintiffs are precluded from offering any testimony in  
25                  support of their claims and further precluded from offering any  
26                  documents requested by Allstate in the deposition notices that  
27                  Plaintiffs may otherwise offer in support of their claims.

## **Local Rule 37-1 Meet and Confer Efforts:**

Pursuant to Local Rule 37-1, Allstate attempted to contact Plaintiffs' counsel prior to noticing Plaintiffs' depositions and received no response. (Declaration of Christina Ding ¶¶ 3-1313, Ex. 1-9.) After noticing Plaintiffs' depositions for July 29 and 30, 2015, Allstate attempted to confirm Plaintiffs' appearances on two separate occasions. Less than 24 hours before the noticed deposition of Plaintiff Matthew Poturich, Plaintiffs' counsel informed Allstate that she was ill and would not be able to attend the depositions. Plaintiffs did not appear for their properly noticed depositions. Despite offering to reschedule, Plaintiffs' counsel has not responded to Allstate's attempts to reschedule the depositions as of the filing of this motion.

12 The Motion is based on this Notice of Motion and Motion, the attached  
13 Memorandum of Points and Authorities, the attached Declaration of Christina Ding  
14 filed concurrently herewith, the attached Exhibits, the pleadings and records on file  
15 in this action, other matters of which the Court may take judicial notice, and such  
16 matters as may be presented at the hearing on the Motion.

18 | Dated: August 5, 2015 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

20 By \_\_\_\_\_ s/ Christina Ding  
21 CHRISTINA DING

Attorneys for Allstate Insurance Company  
(erroneously sued also as Allstate Property and  
Casualty Insurance Company)